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9 INFORMATION SERVICES LLC

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

NOEMIA CARVALHO, on behalf of  
herself and other similarly situated people,

Plaintiff,

v.

CREDIT CONSULTING SERVICES,  
INC., dba CCS, EQUIFAX CREDIT  
INFORMATION SERVICES, LLC,  
EXPERIAN INFORMATION  
SOLUTIONS, INC., TRANS UNION LLC  
and DOES 1-50, inclusive,

Defendants.

Case No.

C08 01317 HRL

NOTICE OF REMOVAL

COMES NOW Defendant Equifax Information Services LLC ("Equifax") incorrectly  
sued herein as "Exhibit Credit Information Services LLC" and files this Notice of Removal of  
this action from the Superior Court of California, Monterey County, Civil Action No.  
M80093, to the United States District Court for the Northern District of California, San Jose  
Division, pursuant to 28 U.S.C. §§ 1332(d), 1441, 1446, and 1453 and on the basis of the  
following facts demonstrating that this case may be properly removed to this Court:

1. Plaintiff filed an action styled *Noemia Carvalho, on behalf of herself and other  
similarly situated people v. Credit Consulting Services, Inc. d/b/a CCS, Equifax Credit  
Information Services, LLC, Experian Information Solutions, Inc., Trans Union LLC and Does*

1-50 inclusive, Civil Action File No. M 80093, in the Superior Court of California, Monterey County, on or about July 24, 2006. Defendant Equifax was served with the Summons and Complaint, through service on its agent for service of process, on November 20, 2006.

2. As more fully set out below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Equifax has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d).

**I. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL.**

3. Venue lies in the United States District Court for the Northern District of California, pursuant to 28 U.S.C. § 1441(a), because the original action was filed within this District and Division. The Superior Court of California, Monterey County, is located within the Northern District of California, San Jose Division. Therefore, venue is proper in this Court because it is the "district and division embracing the place where such action is pending." See 28 U.S.C. § 1441(a).

4. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders that have been served upon Equifax in this action, including an Appendix of the documents, are concurrently filed herewith as Exhibit A to Notice of Removal.

5. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiff and Defendants and a copy is being filed with the clerk of the Superior Court of California, Monterey County.

**II. REMOVAL IS PROPER BECAUSE THE COURT HAS SUBJECT-MATTER JURISDICTION PURSUANT TO 28 U.S.C. § 1332.**

6. The Court has original jurisdiction over this action, and the action may be removed to this Court pursuant to the Class Action Fairness Act of 2005. Pub. L. No. 109-2, 119 Stat. 4 (codified in scattered sections of 28 U.S.C.) ("CAFA").

7. This case is a putative class action in which: (1) there are 100 or more members in the Plaintiff's proposed class; (2) Plaintiff, as putative class representative, and at least some members of the proposed class have a different citizenship from Defendant; and (3) the claims of the proposed class members exceed the sum or value of \$5,000,000 in the aggregate, exclusive of interest and costs. Thus, this Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d).

#### A. Class Action Consisting of More Than 100 Members

8. In the Complaint, Plaintiff purports to represent a class of consumers seeking injunctive relief against the credit reporting agencies' reinvestigation procedures which, as presently constituted, allegedly fail to comply with the California Consumer Reporting Agencies Act ("CCCRA") by, *inter alia*, failing to allow for review and consideration of all relevant information provided by the consumer in the reinvestigation process. *See* Class Action Complaint at ¶ 13. A second alleged class is comprised of California consumers who requested, but allegedly did not receive, an adequate description of the procedure used to determine the accuracy and completeness of the disputed information. *See id.* at ¶ 14. Plaintiff seeks actual damages, punitive damages, attorneys fees and costs on behalf of all class members. *See id.* at Prayer.

9. In the Complaint, Plaintiff alleges that class membership in each class exceeds 500 members. *See id.* at ¶ 18. Accordingly, the aggregate number of class members of all proposed plaintiff classes is greater than 100 for purposes of 28 U.S.C. § 1332(d)(5)(B).

#### B. Minimal Diversity Exists

10. In the Complaint, Plaintiff alleges that she is a citizen of the State of California. *See* Class Action Complaint at ¶¶ 1, 12, 13, 14.

11. Defendant Equifax is, and was at the time Plaintiff commenced this action, a Georgia corporation duly organized and validly existing under the laws of the State of Georgia. *See* Declaration of Alicia Fluellen, ¶ 3, attached as Exhibit B hereto. Equifax maintains its

1 headquarters and principal place of business in Atlanta, Georgia. *See id.*, ¶ 4. Equifax,  
2 therefore, is a citizen of Georgia. *See id.* Thus, at least one proposed class member and one  
3 defendant are of minimally diverse citizenship, thereby satisfying CAFA's minimal diversity  
4 requirement of 28 U.S.C. § 1332(d)(2)(A) that "any member of a class of plaintiffs is a citizen  
5 of a State different from any defendant."

6  
7 **C. The Amount-In-Controversy Requirement Is Satisfied**

8 12. This action arises out of the alleged mis-reporting of a collection account on  
9 Plaintiff's credit file. *See* Class Action Complaint at ¶ 7. Plaintiff claims that she filed  
10 disputes with the consumer reporting agencies but they failed to remove the alleged inaccurate  
11 item. *See id.* She alleges that Equifax and the other consumer reporting agency defendants  
12 violated California Civil Code section 1785.16 by failing to properly investigate her dispute  
13 and failing to review and consider all relevant information that she submitted. *See id.* at ¶ 8.  
14 She also alleges that Equifax and the other consumer reporting agencies failed to provide her  
15 notice as required by California Civil Code section 1785.16(d). *See id.* at ¶ 9.

16 13. Based on these facts, and as noted above, Plaintiff seeks to represent two  
17 putative classes of California consumers whom she claims are similarly situated. *See id.* at ¶¶  
18 12-19.

19 14. Plaintiff asserts claims on behalf of the putative class for violation of the  
20 CCRAA and seeks damages, including punitive damages, as prescribed by the Act. *See id.* at  
21 Prayer, p. 7. The Complaint states no specific amount of damages sought by either Plaintiff or  
22 the putative class members whose interests she reports to represent.

23 15. On February 6, 2008, the Defendants began the deposition of Plaintiff, which  
24 concluded on March 4, 2008. Although Plaintiff did not provide an exact calculation of her  
25 damages at her deposition, she testified that \$25,000 would not be enough to compensate her  
26 for her damages and that \$25,000 would not be enough for each of the 500 class members (2  
27 purported classes of 500 members each) she purports to represent.  
28

1           16. Leaving aside Plaintiff's other claims and considering only the alleged actual  
2 damages, with 500 consumers each claiming "at least" \$25,000 in damages the amount in  
3 controversy exceeds \$5,000,000, as 500 consumers each claiming "at least" \$25,000 in  
4 damages would constitute, in the aggregate, at least \$12,500,000 in alleged damages.

5           17. Moreover, Plaintiff seeks punitive damages on behalf of herself and the putative  
6 class members which would multiply the alleged damages of the purported class. *See* Class  
7 Action Complaint at Prayer, p. 7.

8           18. Therefore, Equifax has a good faith belief that the amount in controversy in this  
9 case, including, but not limited to actual and punitive damages should Plaintiff prevail, clearly  
10 exceeds the jurisdictional threshold of \$5,000,000 contained in 28 U.S.C. § 1332(d).

11           19. Finally, CAFA's legislative history makes clear that doubts regarding the  
12 maintenance of interstate class actions in state or federal court should be resolved in favor of  
13 federal jurisdiction. *See, e.g.*, S. Rep. 109-14, at 43 ("Overall, new section 1332(d) is  
14 intended to expand substantially federal court jurisdiction over class actions. Its provisions  
15 should be read broadly, with a strong preference that interstate class actions should be heard in  
16 federal court if properly removed by any defendant."); *id.* at 35 (the intent of CAFA "is to  
17 strongly favor the exercise of federal diversity jurisdiction over class actions with interstate  
18 ramifications."); *id.* at 27 ("The Committee believes that federal courts are the appropriate  
19 forum to decide most interstate class actions because these cases usually involve large amounts  
20 of money and many plaintiffs, and have significant implications for interstate commerce and  
21 national policy."). Thus, for all of the reasons stated in Paragraphs 13 through 20, Plaintiff  
22 has placed in controversy an amount that satisfies the amount in controversy requirement of  
23 CAFA.

24           20. Equifax's removal is timely as the amount in controversy was not asserted until  
25 Plaintiff testified in her depositions on February 6, 2008, and March 4, 2008, that her claims  
26 and the claims of each class member exceeded \$25,000. Plaintiff's Class Action Complaint did  
27 not assert an amount of damages and thus the amount of controversy was not established by the  
28 filing, meaning that "the case stated by the initial pleading [was] not removable." 28 U.S.C. §

1 1446(b). This notice of removal is timely as it is "filed within thirty days after receipt by the  
 2 defendant, through service or otherwise, of a copy of an amended pleading, motion, or other  
 3 paper from which it may be first ascertained that the case is one which is or has become  
 4 removable." *Id.*; see also *Durham v. Lockheed Martin Corp.*, 445 F.3d 1247, 1251-54 (9th  
 5 Cir. 2006) (removal within 30 days of plaintiff's responses to interrogatories, which disclosed  
 6 basis for removal for first time, was timely); *Riggs v. Continental Baking Co.*, 678 F. Supp.  
 7 236, 238 (N.D. Cal. 1988) ("Defendants did not receive notice under Section 1446(b) of the  
 8 facts indicating removability until plaintiff was deposed on September 30, 1987. The  
 9 deposition constituted an 'other paper' under the [removal] statute.").<sup>1</sup>


10 21. For all of the reasons stated, this action is removable to this Court pursuant to  
 11 §§ 1441, 1446 and 1453, and this Court may exercise jurisdiction over this matter pursuant to  
 12 28 U.S.C. § 1332.

13 22. Defendant will, promptly after the filing of this Notice of Removal, in  
 14 accordance with 28 U.S.C. § 1446(d), give written notice of this Notice of Removal to all  
 15 parties and will file a copy of this Notice of Removal with the Clerk of the Court of the  
 16 Superior Court of California, Monterey County.

17 WHEREFORE, Defendant respectfully requests that this action be removed from the  
 18 Superior Court of California, Monterey County to the United States District Court for the  
 19 Northern District of California, pursuant to 28 U.S.C. §§ 1332(d), 1441 and 1453(b).

20 NOKES & QUINN

21  
 22 Dated: March 6, 2008

  
 23 THOMAS P. QUINN, JR.  
 24 Attorneys for Defendant EQUIFAX  
 25 INFORMATION SERVICES, LLC  
 26  
 27

28 <sup>1</sup> Because the basis for removal is CAFA, the consent of all Defendants is not required and the one-year limitation on removal of diversity actions under 28 U.S.C. § 1446(b) does not apply. See 28 U.S.C. § 1453(b).



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9 INFORMATION SERVICES LLC

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

NOEMIA CARVALHO, on behalf of herself )  
and other similarly situated people, )

Plaintiff, )

v. )

CREDIT CONSULTING SERVICES, INC., )  
dba CCS, EQUIFAX CREDIT )  
INFORMATION SERVICES, LLC, )  
EXPERIAN INFORMATION SOLUTIONS, )  
INC., TRANS UNION LLC and DOES 1-50, )  
inclusive, )

Defendants. )

Case No.

**DECLARATION OF ALICIA FLUELLEN**

I, Alicia Fluellen, hereby declare under penalty of perjury that the following is true and correct:

1. My name is Alicia Fluellen. I am over 21 years of age and I am competent to testify as to the matters stated herein. I am the Director of Customer Care for Equifax Information Services LLC ("Equifax") and have authority to submit this declaration on its behalf in support of its removal.

2. I have personal knowledge of the facts herein stated.

3. Equifax Information Services LLC is, and was at the time Plaintiff commenced

1 this action, a Georgia corporation duly organized and validly existing under the laws of the  
2 State of Georgia.

3  
4 4. Equifax maintains its headquarters and principal place of business in Atlanta,  
5 Georgia.

6 I declare under penalty of perjury that the foregoing is true and correct. Dated this 5th  
7 day of March, 2008 at Atlanta, Georgia

8 By: Alicia Fluellen  
9 Alicia Fluellen



**CERTIFICATE OF SERVICE**

NOEMIA CARVALHO v CCS, EQUIFAX, et al, CASE NO: \_\_\_\_\_

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Orange, State of California, and not a party to the above-entitled cause.

On March 6, 2008. I served a true copy of the

**NOTICE OF REMOVAL**

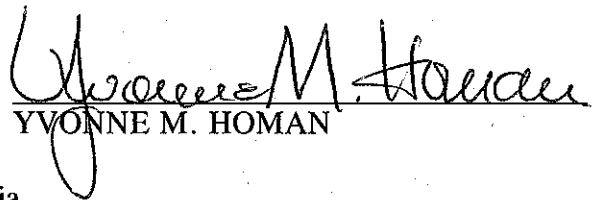
☐ By personally delivering it to the persons(s) indicated below in the manner as provided in FRCivP5(B);

☒ By depositing it in the United States Mail in a sealed envelope with the postage thereon fully prepaid to the following:

**SEE ATTACHED SERVICE LIST**

I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

  
YVONNE M. HOMAN

Place of Mailing: Laguna Beach, California

Executed on March 6, 2008, at Laguna Beach, California.

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Attorneys for Defendant CREDIT CONSULTING  
SERVICES, INC.

**CIVIL COVER SHEET**

JS 44 - CAND (Rev. 11/04)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

**I. (a) PLAINTIFFS**

NOEMIA CARVALHO, on behalf of herself and other similarly situated people

**DEFENDANTS**

CREDIT CONSULTING SERVICES, INC., dba CCS, EQUIFAX CREDIT INFORMATION SERVICES, LLC, EXPERIAN INFORMATION SOLUTIONS, INC., TRANS UNION LLC and DOES 1-50, inclusive

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Monterey  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

RON K. BOCHNER  
3333 Bowers Avenue, Suite 130  
Santa Clara, CA 95054

ATTORNEYS (IF KNOWN)

**C08 01317**  
- SEE ATTACHMENT -  
**HRL**

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**V. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**VI. CAUSE OF ACTION** (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. Sections 1332(d), 1441, 1446 and 1453 - Class Action Fairness Act of 2005

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION DEMAND \$ 5,000,000.  
UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ YES ☐ NO

**VIII. RELATED CASE(S) IF ANY**

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE  
"NOTICE OF RELATED CASE".

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)**

(PLACE AN "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE

DATE March 6, 2008

SIGNATURE OF ATTORNEY OF RECORD

*[Signature]*

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